



# Section 831 of the 2001 National Defense Authorization Act

## Acquisitions in Support of Operations in Iraq and Afghanistan



# Acquisitions in Support of Operations in

Iraq and Afghanistan



- Authority under the National Defense Authorization Act of 2008 that allows  
procurements using other than full and open competition for Acquisitions  
in support of Operations in Iraq and Afghanistan.
- Applies to products, services and construction.
- Justification & Approval is not required.
  - ✓ Determination & Findings is required.
- No dollar threshold for Section 886 authority--D&F required for all actions.
  - ✓ Review AI appendix #1 for approval and coordination signatures.
- D&F format outlined in PGI 225.7703-2.
- Three options for limiting competition.
- Reporting requirements—Congress wants to know what we are doing.
- WHY use Section 886 authority?



# 886 AUTOPERSAT HONCIES

- Product from Iraq or Afghanistan—product must be mined, produced, or manufactured in Iraq or Afghanistan.
  - ✓ Right: 100% made product in Afghanistan—Cement, T-Walls/Barriers.
  - ✓ Wrong: South Korean steel provided by an Afghan company.
  - ✓ Wrong: Computers made in the U.S. but resold by a vendor in Afghanistan.
- Service from Iraq or Afghanistan—service that is performed in Iraq or Afghanistan “predominantly” by citizens or permanent resident aliens of Iraq or Afghanistan
  - ✓ Predominantly = for the most part; mostly; mainly [[mainly](#), [largely](#), [chiefly](#), [mostly](#), [generally](#), [principally](#), [primarily](#), [on the whole](#), [in the main](#), [for the most part](#), [to a great extent](#)]
  - ✓ Right: Mostly (at least 51%) Afghan or permanent resident aliens in Afghanistan.
  - ✓ Wrong: Few Afghans or permanent resident aliens in Afghanistan.
- Source from Iraq or Afghanistan—located in Iraq or Afghanistan AND offers products or services from Iraq or Afghanistan
  - ✓ Right: A firm that is physically located in Afghanistan or has an office/branch in Afghanistan.
  - ✓ Wrong: A company physically located in Kuwait even if the Kuwaiti firm says they “will” open an office in Afghanistan if given the award.



# 386 AUTHORITY OPERATION ONCESTRA OPTION FOR LIMITING COMPETITION

- Provide a preference for products/services from Iraq or Afghanistan.
  - ✓ 20% **evaluation factor is added** to offers of products or services that are not products or services from Iraq or Afghanistan.
  - ✓ DFARS **provision 252.225-7023** is required in solicitation **and DFARS clause 252.225-7024 required in the contract.**
- Limit competition to products or services from Iraq or Afghanistan.
  - ✓ Using JCC-S, KO limits competition to Afghan vendors who can provide the specific product or service from Afghanistan.
  - ✓ Afghan vendors: are businesses located in Afghanistan and registered to do business in Afghanistan.
  - ✓ Note: Afghan vendors do not have to be Afghan owned.
  - ✓ DFARS 252.225-7026 is required in the contract.
- Restrict an acquisition to a particular source or sources from Iraq or Afghanistan.
  - ✓ Predominantly used for sole source acquisitions.
  - ✓ Use JCC-S to data mine approved sources.
  - ✓ JCC I/A provision 952.225-0012 required in the solicitation.
  - ✓ DFARS 252.225-7026 is required in the contract.



## 886 AUTHORITY FOR SOURCE/ LANGUAGE

- Mandatory language to add to paragraph 3 of future Section 886 D&F's
  - ✓ Products: "As required by DFARS 225.77, the products that will be purchased are either produced or manufactured in Afghanistan. Further, the vendor is located in Afghanistan and offers products from Afghanistan."
  - ✓ Services: "This source is located in Afghanistan, it offers services that will be performed in Afghanistan, and the service will be performed in Afghanistan predominantly by citizens or permanent resident aliens of Afghanistan."



# 86 AUTHORITY FOR REPORTING REQUIREMENTS

- Reporting Requirement IAW PGI 225.7703-4
  - ✓ Reports are submitted 3 times per year.
- PD2
  - ✓ Buyer inserts specific 886 data into fields under "Document Chain Information".
- Manual and PD2 requirement were consecutively tracked for 1<sup>st</sup> Qtr FY10
  - ✓ Matching numbers in January should eliminate manual tracking for future reports.



# 886 AUTHORITY—LESSONS LEARNED

- Cite the local area commander of operations in para 7 of D&F
- Choice of the 3 option for limiting competition affects language in para 9 of D&F.
  - ✓ Preference or limited competition: complete para 9. (1) and (2).
  - ✓ Particular source or sources: complete para 9. (1) through (4).
- “Limiting competition to products or services from Afghanistan” is not a set-aside.
  - ✓ Any offeror can compete, BUT the offeror must be located in Afghanistan and must provide services performed predominantly by citizens or permanent resident aliens of Afghanistan.
  - ✓ Solicit locally; exception at FAR 5.202(a)(12) applies to not advertise.
- Restricting to a particular source or sources is a set-aside.
- D&F—always remove the reference to “Iraq”.
- Restricted to particular sources or sources—must conduct Market Research.
- Sole source—must demonstrate contractor’s unique qualifications.



# 886 AJP-CRAT-17-1

## OPERATION ENDURING FREEDOM

- Promotes stable source of jobs in Afghanistan.
- Strengthens long-term Afghan economic growth.
- Promotes Afghan businesses.
- Builds valuable skills in the Afghan workforce.
- Gives local citizens a vested interest in their future.





# OPERATION ENDURING FREEDOM

**QUESTIONS?**